

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
VALDOSTA DIVISION**

CLARENCE SAMULE IVEY, JR.,

Petitioner

VS.

STATE OF GEORGIA,

Respondent

NO. 7:11-CV-129 (HL)

## ORDER

In this action, Petitioner **CLARENCE SAMUEL IVEY, JR.** seeks to remove to this Court under 28 U.S.C. § 1443(1) his criminal prosecution in the Superior Court of Lowndes County. Petitioner states that he was sentenced to life in prison in 1992.

Petitioner's request for removal must be denied for at least two reasons. First, to remove a case under section 1443(1), a defendant must make a showing of racial discrimination. *See Johnson v. Mississippi*, 421 U.S. 213, 219 (1975) ("Claims that prosecution and conviction will violate rights under constitutional or statutory provisions of general applicability or under statutes not protecting against racial discrimination, will not suffice."). Petitioner has no made no showing of racial discrimination. Indeed, he states that "this issue has nothing to do with race, but about civil and constitutional rights." Second, Petitioner's removal petition is untimely. Section 1446(c)(1) requires that a notice of removal of a criminal prosecution be filed with the federal court within thirty days of the "arraignment in State Court, or at any time before trial, whichever is earlier," except for good cause shown. Petitioner has long been convicted and he has failed to show any valid reason for the delay.

Accordingly, Petitioner's motion is **DENIED**.

**SO ORDERED**, this 3<sup>rd</sup> day of October, 2011.

*s/ Hugh Lawson*  
HUGH LAWSON  
UNITED STATES DISTRICT JUDGE

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